

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ANDREW L. BARNETT,

Case No. 6:22-cv-00463-MC

Plaintiff,

ORDER

v.

LINCOLN COUNTY JAIL; DEPUTY
PAGE BEUTLER; SHERIFF CURTIS
LANDERS,

Defendants.

MCSHANE, District Judge.

Plaintiff, a pretrial detainee at the Lincoln County Jail, files this civil rights action under 42 U.S.C. § 1983 and alleges violations of his rights under the Fourteenth Amendment arising from an alleged sexual assault.

Federal law authorizes federal courts to review cases filed in forma pauperis to determine if a claim is “frivolous or malicious” or “fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B). Dismissal of a pro se complaint for failure to state a claim “is proper only if it is clear that the plaintiff cannot prove any set of facts in support of the claim that would

entitle him to relief.” *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). The Court must construe pro se pleadings liberally and afford the plaintiff “the benefit of any doubt.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted). “Unless it is absolutely clear that no amendment can cure” defects in the complaint, “a pro se litigant is entitled to notice of the complaint’s deficiencies and an opportunity to amend prior to dismissal of the action.” *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam).

Construing plaintiff’s Complaint liberally, as the Court must, he sufficiently alleges claims against Deputy Beutler. However, plaintiff alleges no personal participation by Sheriff Landers in the alleged deprivation of his rights, and he alleges no practice, policy, or custom of Lincoln County that caused the violation of his constitutional rights. *See Monell v. Dep’t of Soc. Serv. of City of New York*, 436 U.S. 658, 691 (1978) (describing requirements for municipal liability under § 1983); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (stating that § 1983 liability arises only upon a showing of personal participation by each defendant). Given the nature of plaintiff’s allegations against Deputy Beutler, further amendment would be futile.

CONCLUSION

Plaintiff’s claims against Lincoln County and Sheriff Landers are DISMISSED and these defendants are terminated from this action.

The Clerk of the Court is directed to send this Order and waiver of service packets to Lincoln County Legal Counsel. If defendants decline to waive service, plaintiff will be notified and provided the necessary forms for service by the U.S. Marshals Service.

IT IS SO ORDERED.

DATED this 26th day of April, 2022.

s/ Michael J. McShane
MICHAEL J. MCSHANE
United States District Judge